

### **REMARKS**

The Office Action of April 6, 2006, has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 1-3, 6, 9-13, 15, 18, 23-24, 27-28, 30-32, and 39-40 have been amended. Claims 5, 14, 22, 35-38 and 41-44 have been canceled without prejudice or disclaimer. Claims 45-50 have been added. Claims 1-4, 6-13, 15-21, 23-34, 39-40, and 45-50 remain pending.

New claims 45-50 have been added by this amendment. The additional claims are fully supported by Applicants' original specification and drawings and do not add new matter.

The Action objects to the title of the application as being non-descriptive, and Applicants have proposed herein a revised title.

The Action object to claims 12 and 13 under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants' Preliminary Amendment, filed concurrently with the present invention on November 26, 2001, included a Substitute Specification that removed the multiple dependent claims from the original specification. Applicants believe the Action refers to the original claims. As such, with the filing of the Preliminary Amendment on November 26, 2001, the present objection appears mooted. Without acquiescing to the objection, Applicants have amended dependent claim 12 to depend from claim 10.

Claims 1-27, 29-33, and 35-44 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,904,264 to Frantz (hereinafter referred to as "Frantz"). Applicants respectfully traverse this rejection.

Applicants have amended independent claim 1 to include the features of originally filed dependent claim 5. Applicants' amended independent claim 1 recites, among other features, "a processor operable to initiate delivery of content by the first wireless network in response to a criterion being met by data derived from the second wireless network, wherein the criterion is met when the data derived from the second wireless network exceeds a predetermined threshold value." As allegedly describing this feature of original claim 5, the Action relies on column 7, line 10 to column 8, line 11 and Figure 1 of Frantz. Contrary to the Action's assertions, Frantz fails to teach or suggest at least this feature of Applicants' claim 1.

Frantz is directed to a method for requesting and paying for download of digital radio content. (Title and Abstract). Figure 1 of Frantz describes “a diagram showing the process of transmitting a digital radio signal and downloading and paying for digital radio content.” (Col. 3, lines 1-3). The Action relies on reference element 10, a transmission station transmitting an in-band on-channel digital audio broadcast signal, as a first wireless network. (Action, page 3 and Frantz, col. 3, lines 14-6). For the second wireless network of Applicants’ claim 1, the Action relies on reference element 50, a series of digital transmission nodes, such as digital cell towers. (Action, page 3, and Frantz, col. 3, line 65 to col. 4, line 1). Frantz describes how a user requests to download content of a digital radio transmission 10, whether for free or for a fee, by sending a transmission to a content agent 70. When for a fee, the content agent 70 processes the payment information and, if approved, sends the requested content directly to the user.

Under the Frantz system, the delivery of content from the transmission station 10 is not in response to a criterion being met by data delivered from the series of digital transmission nodes. Under Frantz, content is delivered directly by the content agent 70. For example, col. 6, lines 11-15 of Frantz recites, “However, in addition to sending response signal 80, content agent 70 also transmits the requested content to the user electronically. Thus, user 30 must transmit information along with request signal 40 sufficient to allow content agent 70 to successfully transmit the content to user 30.” In addition, column 6, lines 30-34 of Frantz recites, “After the payment information has been sent and processed, the content agent 70 may then transmit the entire album to the user via a wireless network or through an existing network like the Internet.” Under Frantz, delivery of content is not initiated by the transmission station 10 in response to a criterion being met by data derived from the series of digital transmission nodes 50. As such, Frantz fails to teach or suggest Applicants’ claim 1 features, “a processor operable to initiate delivery of content by the first wireless network in response to a criterion being met by data derived from the second wireless network, wherein the criterion is met when the data derived from the second wireless network exceeds a predetermined threshold value.” Withdrawal of the rejection of claim 1 is thus respectfully requested.

Dependent claim 2-4 and 6-8, which depend from claim 1, are allowable over Frantz for at least the same reasons as their ultimate base claim and further in view of the novel features recited therein. For example, claim 6 recites, among other features, “wherein the data derived from the second wireless network comprises a number of connected user terminals to said second

wireless network.” In rejecting claim 6, the Action cites the same portion of Frantz as noted above with respect to Applicants’ original claim 5. Neither the noted portion nor any other portion of Frantz teaches or suggests this feature of Applicants’ claim 6.

New claims 45-48, which depend from claim 1, are allowable over the art of record for all the reasons given above concerning their respective base claim, and further in view of the novel features recited therein. New claim 49 includes many of the features recited in Applicants’ claim 1. For at least the similar reasons as claim 1, claim 49 is allowable over the art of record.

Applicants have amended independent claim 9 to include the features of originally filed dependent claim 14. Applicants’ amended independent claim 9 recites similar features as those described above with respect to Applicants’ claim 1. In rejecting originally filed dependent claim 14, the Action relies on Figure 1 of Frantz and its disclosure. The corresponding description of Figure 1 provides no further support to teach the features of Applicants’ claim 9. For at least similar reasons as recited above with respect to Applicants’ claim 1, claim 9 is allowable over the art of record and withdrawal of the present rejection is respectfully requested.

Dependent claim 10-13 and 15-17, which depend from claim 9, are allowable over Frantz for at least the same reasons as their ultimate base claim and further in view of the novel features recited therein.

Applicants have amended independent claim 18 to include the features of originally filed dependent claim 22. Applicants’ amended independent claim 18 recites, among other features, “wherein the criterion is met when data derived from the second network exceeds a predetermined threshold value.” As allegedly describing this feature of original claim 22, the Action relies on column 6, line 33 to column 7, line 30 of Frantz. Contrary to the Action’s assertions, Frantz fails to teach or suggest at least this feature of Applicants’ claim 18.

The cited portion of Frantz describes the determination of whether a user that requests digital radio content is a subscriber to the system. However, neither the cited portion nor any other portion of Frantz describes the recited use of a predetermined threshold value or the exceeding of such a value. Under the Frantz system, a simple determination as to whether the user is allowed to receive content from the content agent is made. There is not teaching or suggestion of a threshold value. As such, because Frantz fails to teach or suggest each and every feature of Applicants’ claim 18, withdrawal of the rejection is respectfully requested.

Dependent claim 19-21 and 23-25, which depend from claim 18, are allowable over Frantz for at least the same reasons as their ultimate base claim and further in view of the novel features recited therein.

Applicants' original independent claim 26 recites, among other features, "a processor operable to initiate delivery of content via the wireless unidirectional digital broadband network to a determined area in response to a number of user terminals in the determined area connected to the wireless bi-directional communications area exceeding a predetermined threshold value." As allegedly describing this feature, the Action relies on column 3, line 12 to column 4, line 40 and Figures 1 and 2 and their disclosure of Frantz. Contrary to the Action's assertions, Frantz fails to teach or suggest at least this feature of Applicants' claim 26.

Specifically, in rejecting the claim, the Action states:

Frantz teaches a processor operable to initiate delivery of content via the wireless unidirectional digital broadband network to a determined area in response to a number of user terminals in the determined area connected to the wireless bi-directional communications area (the content agent "processor" operation of unidirectional digital broadcast (20) and bidirectional wireless communication (40 and 80 of figure 1) broadcast video or music or visual data to extended location "coverage which exceeds the threshold of coverage using satellite," see column 3, line 12-column 4, lines 40 and figure 1 and figure 2 and it's disclosure)

Applicants find no description of the features of claim 26 in the cited portion or in any other portion of Frantz. In addition, Frantz fails to even address "extended location 'coverage which exceeds the threshold of coverage using satellite.'" In fact, there is no such description as the terms "extended location", "coverage", and "threshold of coverage" never appear in Frantz at all. Frantz describes delivery of content requested by a user through a content agent alone. The delivery of content is not in response to a number of user terminals in a determined area or exceeding a predetermined threshold value. Therefore, as Frantz again fails to teach or suggest each and every feature of Applicants' claim 26, withdrawal of the rejection is respectfully requested.

Claim 27, which depends from claim 26, is allowable over Frantz for at least the same reason as its ultimate base claim and further in view of the novel features recited therein.

Applicants' original independent claims 29 and 33 recite similar features as described above with respect to Applicants' independent claim 26. For at least similar reasons as described

above with respect to claim 26, Applicants' claims 29 and 33 are allowable over the art of record. Withdrawal of the rejections is respectfully requested.

Claims 30-31, which depend from claim 29, are allowable over the art of record for at least the same reasons as their ultimate base claim and further in view of the novel features recited therein. New claim 50 includes many of the features recited in Applicants' claim 26. For at least the similar reasons as claim 26, claim 50 is allowable over the art of record.

Applicants' original independent claim 32 recites, among other features, "software means operative on the processor to maintain in the storage device a database including threshold values associated with content corresponding to user activity, to monitor user activity in the wireless bi-directional communications network, and to deliver content to a terminal connected to the wireless unidirectional digital broadband network when the user activity exceeds the corresponding threshold value." As allegedly describing these features, the Action relies on column 4, line 62 to column 5, line 22 and Figure of Frantz. Contrary to the Action's assertions, Frantz fails to teach or suggest at least these features of Applicants' claim 33.

The cited portion of Frantz describes a memory buffer that is always active and stores most recent content received by a digital receiver without regard as to whether a user has received authorization to download content. (Col. 4, lines 62-65). Yet again, neither the cited portion nor any other portion of Frantz describes the recited use of a threshold value or the recited monitoring of user activity. As recited in the relied upon portion of Frantz, the memory buffer "is always active" and stores "without regard to whether the user has received an authorization to download the content." Therefore, as Frantz again fails to teach or suggest each and every feature of Applicants' claim 32, withdrawal of the rejection is respectfully requested.

Claims 28 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Frantz in view of U.S. Patent No. 6,618,585 to Robinson (hereinafter referred to as a "Robinson"). Applicants respectfully traverse.

Robinson fails to cure the deficiencies of Frantz noted above with respect to Applicants' claims 26 and 33. As such, dependent claims 28 and 34, which depend from claims 26 and 33, respectively, are allowable over the combination of Frantz and Robinson for at least the same reasons as their ultimate base claims and further in view of the novel features recited therein.

**CONCLUSION**

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below. If any additional required fees are or if an overpayment has been made the Commissioner is authorized to charge or credit Deposit Account No. 19-0733. Applicants look forward to passage to issue of the present application at the earliest convenience of the Office.

Respectfully submitted,  
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